



CHRISTIAN | BARTON, LLP
Attorneys At Law

Direct Dial: 804.697.4120

Louis R. Monacell, Esq.

E-mail: lmonacell@cblaw.com

August 31, 2006

VIA E-MAIL

Robert J. Howatt
Public Service Commission
861 Silver Lake Boulevard
Cannon Building, Suite 100
Dover, Delaware 19904

VIA REGULAR MAIL

William R. Moore
Delmarva Power & Light Company
401 Eagle Run Road
P.O. Box 2939
Newark, Delaware 19714-9239

Re: In the matter of integrated Resource Planning for the Provision of Standard Offer Service by Delmarva Power & Light Company under 26 Del. C. § 1007(C) & (D): Review and Approval of the Request for Proposals for the Construction of New Generation Resources Under 26 Del. C. §1007(d) Opened July 25, 2006

Dear Messrs. Howatt and Moore:

Enclosed please find for filing *Comments of Delaware Energy Users Group*, in the above-referenced case..

Please contact me should you have any questions regarding the enclosed filing. Thank you for your consideration.

Sincerely,


Louis R. Monacell

Enclosures

740541.1

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF INTEGRATED)	
RESOURCE PLANNING FOR THE)	
PROVISION OF STANDARD OFFER)	
SERVICE BY DELMARVA POWER &)	
LIGHT COMPANY UNDER)	
26 DEL. C. § 1007(C) & (D): REVIEW)	PSC DOCKET NO. 06-241
AND APPROVAL OF THE REQUEST)	
FOR PROPOSALS FOR THE CONSTRUCTION)	
OF NEW GENERATION RESOURCES UNDER)	
26 DEL. C. § 1007(d))	
(Opened July 25, 2006))	

COMMENTS OF
DELAWARE ENERGY USERS GROUP

The Delaware Energy Users Group ("DEUG"), by counsel, submits the following comments to the Commission regarding the request of Delmarva Power & Light Company ("Delmarva") for approval of its request for proposals ("RFP") for the construction of new generation resources under 26 Del. C. § 1007(d). DEUG submits these comments pursuant to Order No. 7003, dated August 8, 2006 in this docket.

BACKGROUND

As the Commission is aware, the Electric Utility Retail Customer Supply Act of 2006, 26 Del. C. § 1007(d), directed Delmarva to file a proposal to obtain long-term supply contracts, which Delmarva did on August 1, 2006. As part of such filing, Delmarva included a proposed form of RFP for the construction of new generation resources within Delaware for the purpose of serving customers taking standard offer service.

In addition, in its August 1, 2006, filing, Delmarva seeks authorization to establish a regulatory asset, i.e., a deferral account, to capture incremental costs associated with the

development and submission of the Integrated Resource Plan (“IRP”) and the RFP, including the cost of the services of an independent third-party entity that would be obtained by the Commission, the Office of Management and Budget, the Comptroller General, or the Delaware Energy Office at the expense of Delmarva, as outlined in the Act and to allow for the full recovery of such costs, plus carrying charges, through the standard offer service (“SOS”) process.

Through its proposed RFP, Delmarva proposes to solicit proposals for the construction of new generation resources within the State of Delaware. As a result of such RFP process, Delmarva may enter into a purchase power agreement (“PPA”) to buy electric power (capacity, energy, and ancillary services) for the purposes of supplying a portion of its SOS customer requirements. Delmarva states that, among those proposals that meet all threshold requirements, it shall select the highest rated ones for evaluation under its IRP. It further states that those selected proposals satisfying Delmarva’s needs under the IRP shall be invited to sign a PPA with Delmarva.

The RFP states that such new generation shall be commercially operable no later than June 1, 2013. New generation is defined as any generation resource which adds net generating capacity in the State. If bidders propose to re-power an existing facility, only incremental capacity compared to the megawatts in place before the re-powering took place shall be considered.

Under the PPA, Delmarva may purchase up to 200 MW of new generation, of which not less than 50 MW shall be for non-renewable projects and not less than 25 MW for renewable projects. For purposes of the RFP, a renewable project is a project which is an “eligible energy resource” under the Renewable Energy Portfolio Standards Act of 2005, 26 Del. C. 352. Bidders

may offer terms for the PPA for a minimum of 10 years and a maximum of 25 years. Delmarva proposes to seek proposals for a project or combination of projects providing capacity and energy that are cost-effective, that offer rate stability to Delmarva's Delaware SOS customers, and that satisfy other criteria specified in the RFP.

DEUG states below three principal comments regarding Delmarva's proposals.

COMMENTS

- 1. Cost of the IRP and RFP processes, and of any PPA, relates solely to provision of SOS service and should not be assigned to distribution service.**

Delaware's Electric Utility Restructuring Act, 26 Del. C. § 1001, et. seq., including as amended by the Electric Utility Retail Customer Supply Act of 2006, makes, as the Commission is aware, a clear distinction between distribution services, on the one hand, and standard offer service, on the other hand. See 26 Del. C. § 1001 (8) and (18). Furthermore, Section 1007 of the Electric Utility Restructuring Act, which governs standard offer service, clearly provide in subsection (b) that "the Commission shall review all reasonable incurred costs of the contracts, facilities or programs" and "[c]osts from these projects which have been approved by the Commission shall be included in Standard Offer Service rates." Furthermore, the requirements for Delmarva to conduct integrated resource planning and to propose an RFP process for the construction of new generation resources within Delaware are found in Section 1007, governing standard offer service, specifically subsections (b) (1) and (d).

Both Order No. 7003, and Delmarva's filing and proposed RFP, are explicit in recognizing that the RFP for construction of new generation resources within Delaware is for the purpose of serving customers taking standard offer service. See, e.g., Order at 1 and Delmarva's Application at 2.

For all of the above reasons, cost of the IRP and RFP processes, and of any PPA, should not be assigned to distribution service rates.

2. Cost of the IRP and RFP processes, and of any PPA, do not relate to hourly-priced SOS service and should not be assigned to hourly-priced SOS rates.

The Electric Utility Retail Supply Act of 2006 states that the purpose of the IRP process is “to immediately attempt to stabilize the long-term outlook for standard offer supply in the DP&L territory.” 26 Del. C. § 1007(d). Moreover, that subsection specifies that the RFP is limited to the construction of new generation resources within Delaware for the purpose of serving its customers taking standard offer service. In addition, that subsection specifies that the RFP “shall include capacity and energy and may include ancillary electric products and environmental attributes between the electric distribution company and developers of new generation facilities and that the contract shall have a term of no less than 10 years and no more than 25 years.” Further, that subsection specifies that selection criteria for the RFP process ought to be based on “the cost-effectiveness of the project in producing energy price stability, reductions in environmental impact, benefits of the adopting new and emerging technology, site feasibility and terms and conditions concerning the sale of energy output from such facilities.”

Id.

The General Assembly, in enacting such language in the Electric Utility Retail Customer Supply Act of 2006 could not have had hourly-priced SOS service in mind. For hourly-priced service, by its very nature and essence, is principally the direct flow through of hourly locational marginal prices, as established by PJM. Under hourly-priced service, the customer explicitly takes the hourly pricing risk. Furthermore, by taking such service, the customer is not seeking to obtain energy price stability or to purchase from specific generation resources or specific types

of generation resources. Rather, with hourly-priced service, the customer pays the hourly PJM locational marginal generation price for the Delmarva zone or node.

For the above reasons, DEUG requests that the Commission find and declare that cost of the IRP and RFP processes, and of any PPA, relate solely to the provision of non-hourly priced SOS service and should not be assigned in any part to hourly-priced SOS service and rates.

3. The Commission should find and recognize that many of the proposals in this docket could lead to higher costs of SOS service.

Industrial and commercial companies in Delaware need reasonably-priced electricity service in order to remain competitive in regional, national, and international markets.

While the Delaware Electric Utility Retail Customer Supply Act of 2006 states explicit goals of promoting price stability and promotion of new technologies and environmental benefits, lower SOS prices are not an explicitly stated goal. Nonetheless, the Commission should investigate and recognize that many of the proposals made by Delmarva and other commentators in this docket could lead to higher costs of SOS service. For example, limiting the RFP to no more than 200 MW of new generation does not suggest the likelihood that a coal generation unit could be built with the potential of lowering SOS rates for it is generally accepted that an efficient coal unit must be larger than would be permitted by the proposed RFP.

4. Cost of the IRP and RFP processes, and of any PPA, relate solely to provision of SOS service, and should not be assigned to a nonbypassable charge.

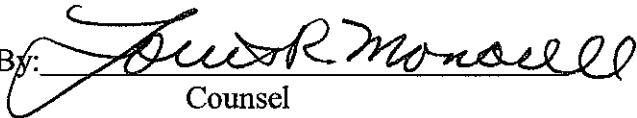
The Electric Utility Retail Customer Supply Act of 2006, specifically 26 Del. C. § 1010(c), provides authority for the Commission to add a “nonbypassable charge to protect the customers of the electric distribution company receiving standard offer service.” Imposing such a charge on customers that do not take SOS service would be grossly unfair, for such customers did not cause the cost of the IRP and RFP processes, and of any PPA, to be incurred. Moreover, imposing such unfair charges on industrial customers that have assumed the pricing risks for

their own generation purchases by buying from third-party, competitive suppliers or by taking hourly-priced SOS service could injure Delaware's economy and jobs for industrial companies in Delaware.

DEUG appreciates the Commission's willingness, and the willingness of its Staff, to consider these comments.

Respectfully submitted,

DELAWARE ENERGY USERS GROUP

By: 
Counsel

Louis R. Monacell, Esq.
Counsel for Delaware Energy Users Group
Christian & Barton, LLP
909 East Main Street
Richmond, Virginia 23219
Tel: 804.697.4120
Fax: 804.697-6120
E-mail: lmonacell@cblaw.com

Date: August 31, 2006